

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LOUIS A. CIARLANTE and	:	CIVIL ACTION
THOMAS A. MARSHALL, Individually	:	
and on behalf of a class of	:	
individuals	:	
	:	
v.	:	
	:	
BROWN & WILLIAMSON TOBACCO	:	
CORPORATION and THE AMERICAN	:	
TOBACCO COMPANY	:	NO. 95-4646

MEMORANDUM AND ORDER

Fullam, Sr. J. July , 1997

Having prevailed in this class action for violation of the WARN Act, plaintiffs submitted an application for counsel fees and expenses. The initial application, seeking \$419,527 in fees and \$30,769.93 in expenses, was not accompanied by counsel's contemporaneous time records (on the theory that disclosure of these records might improperly prejudice other pending or contemplated actions against the defendants, by revealing counsel's litigation strategy). Plaintiffs were directed to supplement their application by submitting the time records, and they have now done so.

Defendants have interposed a multitude of objections to the fee request. Many of defendants' objections are valid. I summarize my rulings on these disputes as follows:

1. Excessive hours.

Plaintiffs will be compensated for 30 hours spent drafting the complaint, 100 hours on the Motion for Class

Certification, 30 hours for notice to the class, 65 hours on the Motion to Compel, 100 hours in drafting the proposed final judgment, and 50 hours for drafting incidental and supplemental petitions. Plaintiffs are not entitled to counsel fees for time spent investigating American Brands, another defendant which was dismissed from the case at an early stage, or for time spent on an unsuccessful Motion to Intervene.

Thus, the hours claimed will be reduced by a total of 236, which represents approximately 11.5 percent of the total hours claimed. Since the billing records do not specify which lawyer worked on which task, I have simply reduced each lawyer's claimed hours by 11.5 percent.

2. Excessive hourly rates.

I have concluded that the following hourly rates are reasonable, and should be awarded: John Elliott \$300 an hour; Henry Siedzikowski \$275 per hour; Timothy Myers \$225 an hour; F. Santarelli \$175 an hour; Adam Krafczek \$165 an hour; R. Santarelli \$110 an hour; P. Lemanowicz \$110 an hour; paralegals, \$70 per hour.

At these rates, the total of 1,820.35 hours approved in the preceding section produce a total award of \$334,466.30 for counsel fees.

3. Excessive expenses.

Plaintiffs are claiming \$15,431.25 for "copying." At 25 cents per page (which, in itself, might be regarded as excessive) this would reflect more than 60,000 pages copied. This seems facially unreasonable, and will only be awarded to the extent of

\$10,000. Plaintiffs have not justified the claimed \$1,330 for messenger service, \$60.50 for "Velobind" or \$41.11 for "supplies" (presumably an overhead item reflected in the counsel fee award). The claimed \$720 for "witness fees" will also be disallowed. See, Abrams v. Lightolier Inc., 50 F.3d 1204 (3rd Cir. 1995). I am not aware of any basis for including, in an award of counsel fees and expenses, reimbursement of the travel expenses of the named plaintiffs.

4. Conclusion.

Plaintiffs will be awarded counsel fees totalling \$334,466.30, plus \$32,287.08 for expenses.

An Order follows.

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TOBACCO COMPANY	:	NO. 95-4646

ORDER

AND NOW, this day of July, 1997, upon consideration
of plaintiffs' Application for Counsel Fees and Expenses, and
defendants' response, IT IS ORDERED:

Plaintiffs are awarded counsel fees in the sum of
\$334,466.30, plus \$32,287.08 in expenses.

John P. Fullam, Sr. J.